

U.S. DEPARTMENT OF LABOR

FREEDOM OF INFORMATION ACT
ANNUAL REPORT: Calendar Year 1996

The Department received a total of 18,559 initial requests for records. The majority of these requests were received by the Occupational Safety and Health Administration (OSHA) which received 12,633 requests. The Employment Standards Administration (ESA) received 2,466 requests.

1. Number of determinations not to comply in whole or in part with an initial request for records: 10,311
2. Authority relied upon in initial disclosure determination:

(a) Under 5 U.S.C. 552(b):*

Exemption 1.	4 times
Exemption 2.	697 times
Exemption 3.	413 times
Exemption 4.	1,179 times
Exemption 5.	8,548 times
Exemption 6.	4,233 times
Exemption 7(A).	5,772 times
Exemption 7(B).	8 times
Exemption 7(C).	8,567 times

* The number of exemptions asserted exceeds the number of determinations not to comply with an initial request. This occurs because, in responding to a request, the Department may claim several different exemptions.

Exemption 7(D). 5,299 times
Exemption 7(E). 1,054 times
Exemption 7(F). 11 times
Exemption 8. 2 times
Exemption 9. 1 time

(b) Statute involved pursuant to exemption 3 on initial disclosure determination:

(1) The Occupational Safety and Health Administration withheld the names of complainants who reported safety and health violations under the authority of section 8(f)(1) of the Occupational Safety and Health Act (OSHA), 29 U.S.C. 657(f)(1). It also withheld the disclosure of advance notice of a safety inspection under the authority of section 17(f) of this statute, 29 U.S.C. 666(f). This agency also withheld documents pursuant to the Copyright Act of 1976(17 U.S.C. 705).

(2) The Office of Labor-Management Standards withheld grand jury material pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure.

(3) The Office of the Inspector General (OIG) withheld grand jury material pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure.

(4) The Mine Safety and Health Administration (MSHA) withheld the names of miners, pursuant to the Federal Mine Safety and Health Act of 1977, section 103(g)(1)(30 U.S.C. 813(g)(1)), who requested safety inspections. It also withheld information pertaining to maps pursuant to section 312(b) of this statute (30 U.S.C. 872(b)).

(5) The Pension and Welfare Benefits Administration withheld court documents that had been designated as confidential during the course of discovery.

- (c) Other Authority:
Nonpossession of record or nonexistence of
record: 3,441

Failure to identify or reasonably describe records: 453

- (d) Number of requests withdrawn: 295

- (e) Non-payment of fees: 176

3. Names and positions of each person who is responsible
for initial denial of records:

A. Occupational Safety and Health Administration

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
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Region I - Boston, Massachusetts

John Phillips	Regional Administrator	5
C. William Freeman	Area Director	40
Brenda Gordon	Area Director	173
Kipp Hartmann	Area Director	27
K. Frank Gravitt	Area Director	86
David May	Area Director	42
John Stanton	Area Director	47
Ronald Morin	Area Director	75
Clifford Weston	Area Director	93

Region II New York, New York

John Tomich	Area Director	107
Dennis Gaughan	Area Director	338

Edward Scott	Area Director	152
David Boyce	Area Director	228
Efraim Zoldan	Area Director	138
Anthony DeSiervi	Area Director	299
Gary Roskoski	Area Director	50
Linda Forsyth	Area Director	149
Robert Kulick	Area Director	219
Jose Carpena	Area Director	7
Diane Brayden	Area Director	156
Cathie Mannion	Area Director	130
Patricia Clark	Regional Administrator	121

Region III - Philadelphia, Pennsylvania

Linda Anku	Regional Administrator	20
Phyllis Kyner	Area Director	109
George Tomchick	Area Director	87
Andrew Hedesh	Area Director	82
Robert Fink	Area Director	74
Robert Szymanski	Area Director	86
John Stranahan	Area Director	38
Leonard Moore	Area Director	47
Stanley Elliott	Area Director	146
Charles Pope	Area Director	19
Lacy Sutton	Area Director	28

Regional IV - Atlanta, Georgia

Raymond Finney	Area Director	60
Thoma Brown	Area Director	122
John Hall	Area Director	226
Leslis Grove	Area Director	13
Jose Sanchez	Area Director	289
David Barnhill	Area Director	9
Clyde Payne	Area Director	113
James Borders	Area Director	220
Lana Graves	Area Director	96
David Barnhill	Acting Area Director	11
Suzanne Nash	Area Director	33
Luis Santiago	Area Director	72
Lawrence Falck	Area Director	290
R. Davis Layne	Regional Administrator	82

Region V - Chicago, Illinios

Michael Connors	Regional Administrator	9
Melvin Lischefski	Area Director	80
Thomas Canard	Asst. Area Director	10
Robert Hager	Asst. Area Director	8
Charles Shields	Area Director	72
Gary J. Anderson	Aea Director	59
Gary Weil	Safety Specialist	19

Ron Payne	Safety Specialist	14
Ron Byrd	Safety Specialist	18
Sharon Anderson	Industrial Hygenist	10
Anthony Sutton	Industrial Hygenist	2
William Murphy	Area Director	88
Ray Polk	Safety and Health Specialist	37
Bonita Nordquist	Safety and Health Specialist	20
Danelle Jindra	Safety and Health Specialist	13
Deborah Zubaty	Area Director	110
Timothy Kobernat	District Supervisor	10
Peggy Zweber	Area Director	121
Patrick M. Ostrenga	Asst. Area Director	31
James R. Dollins	Asst. Area Director	53
Donald Brozowski	Area Director	31
Arnis Andersons	Area Director	118
Kenneth Gilbert	Area Director	3

Region VI -Dallas, Texas

Ed Cosgrove	Area Director	212
Paul Brantley	Area Director	233
Robert Homles	Area Director	96
Robert Hunter	Area Director	84
Dean Wingo	Area Director	38

Patricia Bradley	Area Director	140
Ray Skinner	Area Director	170
Paul Hansen	Area Director	96
Willilam White	Area Director	119

Region VII - Kansas City, Missouri

Charles Adkins	Regional Administrator	31
Cynthia Dearing	Area Director	126
Ben Bare	Area Director	45
Janice Barrier	Area Director	51
Thomas Marple	Area Director	4
Mark Banden	Area Director	24
Lodama Delinger	Area Director	16

Region VIII - Denver, Colorado

Bobby Glover	Area Director	93
John Healy	Area Director	18
David Ditommaso	Area Director	31
Bruce Beelman	Area Director	7
Cindy Cross	FOIA Coordinator, Regional Office	7

Regional IX - San Francisco, California

Lois Henry	Safety & Health Assistant	40
Sedric Lagajit	Contact Representative	2

Lynne Hunter	Officer Manager	8
Sue Benson	Officer Manager	16
Colleen Furutani	Officer Manager	6

Regional X - Seattle, Washington

John Spear	Regional Administrator	16
Carl Halgren	Area Director	2
Rayan Kuehmichel	Area Director	71
Jerry Hockett	Supervisor	9
Barry Noll	Area Director	8
Dean Ikeda	Area Director	6

National Office - Washington, D.C.

Freda Malone	Labor Relations Specialist	1
Gregory Baxter	Acting Director	1
Stephen Mallinger	Acting Director	2
Adam Finkel	Director	5
Anne Cyr	Acting Director	4
Bonnie Friedman	Director	2
Paul White	Director	3
Marilyn Landry	Administrative Officer	11
Stephen Newell	Director	3
Cathy Goedert	Acting Director	1
MaryAnn Piretti	Safety Officer	2

B. Employment Standards Administration

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
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I. Office of Management, Administration and Planning (OMAP)

Donna G. Copson	Director, OMAP	7
Cecily Rayburn	Dir., Div. of Financial Mgmt.	1
Dorothy C. Chester	FOIA/PA Coordinator	1

II. Office of Workers' Compensation Programs (OWCP)

Field Offices

Charity Benz	Regional Director (RD) Boston	3
Kenneth Hamlett	RD, New York	1
William Franson	District Director (DD) Jacksonville	1
Marilyn C. Felkner	DD, New Orleans	1
Donna Onodera	RD, San Francisco	1
Ed Bounds	DD, San Francisco	1
Joyce Terry	DD, Long Beach	1

National Office

James L. DeMarce	Director for Black Lung	1
Edward Duncan	Assistant District Director	3
Dennis Mankin	Assistant to the Director OWCP	30

III. Office of Federal Contract Compliance Programs

Field Offices

James Turner, Jr.	Act. Reg. Dir. (ARD), Boston	32
James Turner, Jr.	RD, New York	24
Joseph DuBray, Jr.	RD, Philadelphia	44
Carol A. Gaudin	RD, Atlanta	77
Halcolm Holliman	RD, Chicago	38
Carol A. Gaudin	ARD, Dallas	52
Helene H. Haase	RD, San Francisco	70
John R. Checkett	RD, Seattle	38

National Office

Harold M. Busch	Director, Division of Program Operations	58
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IV. Wage and Hour Division

Field Offices

James Kight	Acting Reg. Administrator (ARA), Boston	9
James Kight	ARA, New York	49
John Bates	Branch Chief, Atlanta	3
John Blaine	Assistant District Dir. (ADD) Atlanta	1
Tom Cambron	ADD, Atlanta	1
Carol Merchant	District Director (DD) Atlanta	10
George Holt	DD, Atlanta	1
Lyndel Erwin	DD, Atlanta	3
Ana Moreno	DD, Atlanta	4

Don Outland	DD, Atlanta	1
Kim Jackson	Wage Hour Investigator Atlanta	1
Jorge Rivero	DD, Atlanta	1
Carrie Riddle	Regional Office Manager Atlanta	154
Richard McMahon, Jr.	Acting RA, Chicago	161
James Kight	RA, Philadelphia	136
M.J. Villarreal Jr.	RA, Dallas	286
Karen Chaikin	Reg. Operations Officer Kansas City	58
Leigh A. Power	Disclosure Officer San Francisco	57

National Office

Maria Echaveste	Administrator	42
John R. Fraser	Deputy Administrator	3
Corlis Sellers	Program Administrator	41
Rae E. Glass	Director of External Affairs	1
William Gross	Dir., Office of Wage Determinations	3
Daniel Sweeney	Fair Labor Standards Act Team Leader	4
Nila Stovall	Service Contracts Wage Determination Team Leader	5
Thomas Shierling	Immigration Team Leader	5

C. The Office of Labor-Management Standards, Office of the American Workplace

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Charles L. Smith	Deputy Assistant Secretary	4
John Kotch	Acting Deputy Assistant Secretary	157

D. Office of the Assistant Secretary for Administration and Management

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Patricia W. Lattimore	Deputy Assistant Secretary Administration and Management, National Office (N.O.)	12
Annabelle T.Lockhart	Director, Civil Rights Center	3
Jerry Lechhook	Director, Office of Employee and Labor Management Relations, N.O.	1
Daniel P. Murphy	Director, Office of Procurement Services, N.O.	36
Al Stewart	Director, Office of Acquisition Advocate	2
Frederick A. Drayton	Director, Safety and Health Center, N.O.	1
Stephen Garfinkel	Director, Office of Cost Determination, N.O.	1
L.R. Cabe	Regional Personnel Officer Atlanta	1
Janis Carreiro	Regional Administrator	2

	Boston/New York	
Lyn B. Dubeck	Labor Relations Officer Philadelphia	3
Robert L. Giuliano	Regional Personnel Officer Boston	1
Phil House	Regional Administrator Dallas/Denver	2
Bob Jur	Regional Personnel Officer Chicago	4
Darlene Lorman	Regional Administrator Chicago/Kansas City	1
Teresa Rasfeld	Regional Personnel Officer San Francisco/Seattle	6
George Tistle	Regional Finance Officer Chicago	2

E. Employment and Training Administration

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Robert J. Semler	Regional Administrator Boston	6
Albert Garizio	Acting Regional Administrator New York	2
Edwin Strong, Jr.	Regional Administrator Philadelphia	4
William Dealy, Jr.	Regional Management Analyst Atlanta	20
Joseph C. Juarez	Regional Administrator Chicago	9
Don A. Balcer	Regional Administrator Dallas	12
William Hood	Regional Administrator	2

	Kansas	
Peter E. Rell	Regional Administrator Denver	3
Armando Quiroz	Regional Administrator San Francisco	17
Bill Janes	Regional Administrator Seattle	4
Mary H. Silva	Director Office of Job Corps.	1
Albert Glastetter	Regional Job Corps Director Boston	3
Stanley Belza	Regional Job Corps Director New York	1
James Bodnar	Regional Job Corps Director Philadelphia	3
Melvin R. Collins	Regional Job Corps Director Atlanta	20
Richard Trigg	Regional Job Corps Director Chicago	1
Jose de. Olivares	Regional Job Corps Director Dallas	5
John Douglas	Regional Job Corps Director Kansas & Denver	1
Jackie Roberts	Regional Job Corps Director San Francisco	10
Timothy Barnicle	Assistant Secretary of Labor Washington, DC	1
Bryan Keilty	Administrator Office of Financial and Administrative Management	1
Joseph Paslawski	Director Office of Management Information Resources	7

Robert D. Parker	Chief Division of Acquisition and Assistance	33
Lynn Maddox Masiello	Director Office of Human Resources	1
Mary Ann Wyrsh	Administrator Unemployment Insurance Service	5
Flora Richardson	Chief Division of Foreign Labor Certification	5
Anthony Swoope	Director Bureau of Apprenticeship and Training	10
Sally Uber	BAT Regional Director Dallas	1
Isadore H. Gross	BAT Regional Director Kansas City	3
William Wadsworth	BAT Regional Director	2

F. Mine Safety and Health Administration

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
John Langton	Acting Management Officer, Coal	2
Kathrine Knittel	Management Officer, Coal	1
Allyn Davis	Chief, Division of Safety, Coal	1
Marvin Nichols Jr.	Administrator, Coal	2
Lawrence Beeman	Chief, TCID, Coal	29
Sandra Yamamoto	Acting Chief, TCID, Coal	4
Ronald J. Schell	Chief, Division of Health, Coal	1
John J. Podgurski	Assistant District Manager	4

	District 1, Coal	
Joseph J. Garcia	District Manager District 2, Coal	7
Timothy Thompson	District Manager District 3, Coal	4
Lincoln L. Selfe	Acting District Manager District 3, Coal	2
Edwin P. Brady	Acting District Manager District 3, Coal	2
Earnest C. Teaster, Jr.	District Manager District 4, Coal	15
Ronald O. Dunbar	Assistant District Manager District 4, Coal	4
Richard J. Kline	Assistant District Manager District 4, Coal	1
Billy G. Foutch	Assistant District Manager District 4, Coal	1
Charles E. McGraw	Assistant District Manager District 4, Coal	1
Ray McKinney	District Manager District 5, Coal	4
Carl E. Boone, II	District Manager District 6, Coal	3
Michael Keene	Acting District Manager District 6, Coal	4
Joseph Pavlovich	District Manager District 7, Coal	20
David L. Whitcomb	Assistant District Manager District 8, Coal	1
John Kuzar	District Manager District 9, Coal	7
William Reitze	Acting District Manager District 9, Coal	1

William Denning	Acting District Manager District 9, Coal	2
Rexford Music	District Manager District 10, Coal	1
Richard Reynolds	Acting District Manager District 10, Coal	1
Michael Lawless	District Manager District 11, Coal	2
Vernon R. Gomez	Administrator Metal and Nonmetal	17
James Petrie	District Manager NE District, Metal and Nonmetal	5
John K. Radomsky	Assistant District Manager NC District, Metal and Nonmetal	5
Robert M. Friend	District Manager RM District, Metal and Nonmetal	1
Jake H. DeHerrera	Acting District Manager RM District, Metal and Nonmetal	2
Garry J. Day	Assistant District Manager Western District Metal and Nonmetal	7
George M. Fesak	Director Program Evaluation and Information Resources	3
Jay Mattos	Acting Director Program Evaluation and Information Resources	1
Rhys G. Llewellyn	Chief, Information and Employment Information PEIR	1
Richard G. High	Director, Assessments	7

Richard A. Gates	Acting Director, Assessments	1
Kenneth T. Howard	Director, Technical Support	3
Peter M. Turcic	Chief, Approval and Certification Center Technical Support	1
Richard Brechbiel	Director, Administration and Management	1
Joseph Kirker, Jr.	Chief, Human Resources Division Administration and Management	2
Wayne Veneman	Director, Information and Public Affairs	2

G. Office of the Solicitor

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Marvin B. Krislov	Deputy Solicitor of Labor for National Operations	19
Ronald G. Whiting	Deputy Solicitor of Labor for Regional Operations	12

H. Pension and Welfare Benefits Administration

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Sharon S. Watson	Dir. of Prog. Svcs. National Office	40
Gregory P. Egan	Regional Director Kansas City	14
David Ganz	Regional Director Los Angeles	4

Leonard Garofolo	Regional Director San Francisco	16
John Scanlon	District Supervisor Seattle	2
Bruce D. Ruud	Regional Director Dallas	7
Joseph R. Menez	Regional Director Cincinnati	19
Henry DeSantis	Deputy Regional Director Boston	5
Howard L. Marsh	Regional Director Atlanta	7
J. Shannon Davis	Associate Regional Director Atlanta	1
Gerard Gumpertz	Regional Director Philadelphia	7
Virginia C. Smith	Regional Director Philadelphia	9
Stephen Schwab	Acting Regional Director Philadelphia	1
John Wehrum, Jr.	Regional Director New York	6

I. Office of the Inspector General

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Pamela Davis	FOIA Disclosure Officer	70

J. Bureau of Labor Statistics

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
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Katharine Abraham	Commissioner	32
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K. Employees' Compensation Appeals Board

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Michael J. Walsh	Chairman of the Board	9

L. Office of the Administrative Law Judges

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Todd Smyth	Legal Counsel	3

M. Bureau of International Labor Affairs

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Irasema Garza	Secretary U.S. National Administrative Office	6

O. The Veterans' Employment and Training Service

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Hary Puente-Duany	Director, Office of Information, Management And Budget, National Office Washington, D.C.	16
Howard Sisson, Jr.	Regional Administrator Boston	1
Irvin Pope	Regional Administrator Philadelphia	2

Williams J. Bolles, Jr.	Regional Administrator Atlanta	2
Ronald G. Bachman	Regional Administrator Chicago	8
Lester L. Williams, Jr.	Regional Administrator Dallas	3
Charles Martinez	Regional Administrator Seattle	1

4. Total number of administrative appeals from denials: 274

Total number of dispositions on administrative appeals:	179
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(a) Number of appeals granted in full:	11
(b) Number of appeals denied in full:	48
(c) Number of appeals granted in part/denied in part:	48
(d) Other dispositions: see paragraph 5(b) below	72

5(a). Exemption invoked on appeal:

Exemption 1.	0 times
Exemption 2.	2 times
Exemption 3	3 times
Exemption 4.	33 times
Exemption 5.	74 times
Exemption 6.	6 times
Exemption 7(A).	21 times

Exemption 7(B). 0 times
Exemption 7(C). 68 times
Exemption 7(D). 53 times
Exemption 7(E). 9 times
Exemption 7(F). 0 times
Exemption 8. 0 times
Exemption 9. 0 times

(b). Other authority:

Non-possession of record: 14

Appeals withdrawn: 58

6. Names and titles of persons responding to administrative appeals:

Bruce A. Cohen, Deputy Associate Solicitor, acting for the then Solicitor of Labor Thomas S. Williamson, Jr., and thereafter, acting for the Acting Solicitor of Labor, J. Davitt McAteer.

7. New rules or instructions issued during calendar year 1996.

Miriam McD. Miller, Counsel for Administrative Law in the Department's Office of the Solicitor, issued a memorandum, dated July 8, 1996, informing the Department's FOIA Coordinating Committee members of the need to purchase the annual FOIA Guide and Overview, to be published by the Department of Justice. By memorandum dated November 8, 1996, J. Davitt McAteer, Acting Solicitor of Labor, informed all agency heads, within the Department, of the new electronic FOIA statutory amendments of 1996. By memorandum dated November 18, 1996, Ms. Miller informed the FOIA Coordinating Committee members and all ADP Coordinators of the new electronic FOIA statutory amendments of 1996. By memorandum dated November 19, 1996, Donna G. Copson, Director of the Office of Management, Administration and Planning within the Department's Employment Standards

Administration, informed management officials of the new electronic FOIA statutory amendments. Copies of all of these memoranda and instructions are attached. (The attachments to the Copson memorandum are not included herein since they are duplicative of other materials.)

8. A copy of the Department's fee schedule, and the total amount of fees collected by the agency for making records available.

The Department's fee schedule for 1996 was \$2.50 per quarter hour for search time by clerical employees and \$5.00 per quarter hour for professional employees. Review charges were \$5.00 per quarter hour. Reproduction charges were \$.15 per page. In accordance with the 1986 amendments to FOIA, preferential treatment was given to certain classes of requesters. Consequently, representatives of the news media, and educational and non-commercial scientific institution requesters were afforded free search and review time and 100 pages of documents without charge. All other requesters, with the exception of commercial use requesters, were afforded 2 hours of free search time and the first 100 pages of documents at no charge. Review costs, on behalf of commercial users, were charged at the rate of \$5.00 per quarter hour.

The Department of Labor collected a total of \$233,268.73 in fees.

9. The Department of Labor estimates that incidental costs of implementing the Freedom of Information Act, including the defense of suits, amounted to \$3,750,000.

10. In 1996, nine new suits were filed against the Department of Labor under the FOIA/PA. In three of these cases, the administrative appeal process had not been completed. Two of the cases were settled. At the year's end, a total of eleven matters were still pending. No decisions were handed down in cases pending from the prior years. No disciplinary action was taken against any Departmental employee pursuant to 5 U.S.C. § 552(a)(4)(F).



Alexis M. Herman
Secretary of Labor

Attachment



JUL - 8 1996

MEMORANDUM FOR: FOIA COORDINATING **COMMITTEE** MEMBERS

FROM: MIRIAM McD MILLER M.M.
Co-Counsel for Administrative
Law

SUBJECT: The Freedom of Information Act Guide &
Privacy Act Overview and Freedom of
Information Case List, 1996 Editions

Enclosed is an announcement from the Department of Justice of the September 1996 publication of two books, the Freedom of Information Guide & Privacy Act Overview and the Freedom of Information Case List 1996 editions. The deadline for your order is August 16, 1996

This year, unlike last year, there will be two publications. For your purposes, the **more** important book is the Freedom of Information Act Guide & Privacy Act Overview. This book will provide valuable guidance, as well as the text of both the FOIA and Privacy Act statutes. Due to severe budget constraints within the Office of the Solicitor, the Division of Legislation and Legal Counsel will be unable to supply any complimentary copies of the Guide & Overview to anyone. Accordingly, we strongly recommend that you order enough additional copies of this volume (at \$4.00 per copy) to provide yourself and ~~&~~ of your disclosure officers, both in the national and regional offices, and anyone else in your agency who should have one, with **a copy**.

The second book, the **Freedom of Information Case List**, may not be of equal value to you. It contains an up-to-date list of court cases decided under the various-access statutes. This book will be available in my office should you wish to refer to it. Accordingly, you may not wish to purchase it.

Your requisition order should be typed on DOL Form DL 1-72, signed by your administrative officer, and then delivered to Barbara Truesdale in the Branch of Printing, OASAM, Room S-1514, Frances Perkins Building, by August 16, 1996.

For further information contact Marshall Deutsch at telephone number 219-8065, ext. 121.

Attachment



U.S. Department of Justice
Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

June 24, 1996

TO: All **Federal** Departments and Agencies

Attention: Principal Administrative and Legal
Contacts for Freedom of Information
Act Matters

FROM: Richard L. Huff
Daniel J. Metcalfe
Co-Directors
Office of Information and Privacy

SUBJECT: Freedom of Information Act Guide & Privacy Act Overview
and Freedom of Information Case List, 1996 Editions

The 1996 editions of the Freedom of Information Act Guide & Privacy Act Overview and the Freedom of Information Case List are scheduled **to be** published by the Office of Information and Privacy through the U.S. Government Printing Office in September. Four years ago, we began publishing two separate volumes: the Guide & Overview is published annually; the Case List is now published on a biennial cycle, in even-numbered years. There will be a new edition of each volume this year.

The Freedom of Information Act Guide & Privacy Act Overview will feature the "Justice Department Guide to the **FOIA**," as well as an overview discussion of the provisions of the Privacy Act prepared in coordination with the office of Management and Budget. It **also will** contain the texts of **those** two access statutes.

The 1996 edition of the Freedom of Information Case List will contain up-to-date lists of cases decided under the Freedom of Information Act, the Privacy Act, the Government in the Sunshine Act, and the Federal Advisory Committee Act--as well as the texts of those four access statutes and a list of related law review articles. FOIA cases will be indexed through approximately August 12, 1996.

If your agency would like to have multiple copies of these updated FOIA reference volumes, you may obtain them at the original printing cost by **"riding"** the Department of Justice's base GPO requisition orders. To do so, you should determine how many copies of each volume you will want at the base price (expected to be approximately \$4.00 per copy for each of the two volumes

this year) **and make** arrangements with your printing officer to place your agency's **order by no later than August 27, 1996.** The GPO requisition number for the Guide & Overview is **6-00490; for the Case List** it is 6-00491. When submitting a requisition for **copies, you** should use Standard Form One (**SF-1**); Department of **Justice** components should use a separate Form DJ-2 for each volume. Offices outside the Washington, D.C. area should contact their printing or publication officers in Washington for their proper billing codes.

As it has done in the past, the Office of Information and Privacy will send one courtesy copy of both the Guide & Overview and the Case List to each principal FOIA contact at each agency. Additional copies must either be ordered in advance at the special **base** price or else purchased at the full price at a GPO bookstore thereafter. Last year, the bookstore price for the Guide & Overview was approximately \$21.00 greater than the base price; it is expected that the base price savings will be comparable this year. **OIP's** publication editor, Pamela **Maida**, is available to answer any questions at **(202) 514-5105.**



NOV 8 1996

MEMORANDUM FOR ALL AGENCY HEADS

FROM: . J. DAVITT MCATEER
Acting Solicitor

SUBJECT: Electronic FOIA Amendments of 1996

Congress recently passed amendments to the Freedom of Information Act ("FOIA"). The amendments address the availability of and access to government information in electronic form.* The legislation requires government agencies to use new electronic technologies -- such as the internet -- to "enhance public access to agency records and information." The amendments will be implemented over several years; however, with the exceptions noted below, the most important date is March 31, 1997, the day on which the FOIA amendments take effect. The amendments' key requirements are:

Publicly Available Materials. Subsection (a)(2) of FOIA already requires that materials such as final opinions rendered in the adjudication of cases, specific policy statements, and certain staff manuals routinely be made available for public inspection or copying. Under the amendments, any subsection (a)(2) records created on or after November 1, 1996, must be made publicly available by such electronic means as an internet home page. However, agencies have until November 1, 1997, to actually make records created on or after November 1, 1996, electronically available.

Frequent FOIA Requests. Beginning on March 31, 1997, agencies must make frequently requested FOIA records publicly available. Agencies have until November 1, 1997, to make frequently requested FOIA records electronically available. Three or more requests under FOIA for the same or substantially the same record qualify as a "frequent request." By December 31, 1999, agencies must provide an electronic index of frequently requested FOIA records.

Definition of a "Record." The amendments establish that a "record" is information stored in any format, including an electronic format.

* The legislation did not amend any of the exemptions from required disclosure and, therefore, did not change the basic coverage of the FOIA.

- Expedite Requests The amendments set forth the circumstances under which an agency will have to respond expeditiously to requests for records. For example, a request from the media about actual or alleged federal government activity may require an 'expeditious response.
- 20-Day Response Time. Previously, an agency had only 10 working days from the date a request for records was received to determine whether to comply with the request. Under the amendments, the agency will have 20 working days from receipt of the request to determine whether to comply. Nevertheless, an agency may extend the 20 day period if "unusual circumstances" exist. The agency must provide written notice to the requestor setting forth the unusual circumstances.
- Multi-Tracking. An agency may promulgate regulations to provide for multi-track processing of requests for records based on the amount of work or time (or both) involved in processing the requests. Under multi-tracking, agencies may establish separate first-in, first-out queues for FOIA requests with differing levels of complexity.
- Searches. The amendments require agencies to "make reasonable efforts" to search for records stored in electronic form or format.
- Choice of Format. Previously, an agency had no obligation to accommodate a FOIA requestor's choice of format; instead, the agency only had to provide information in a reasonably accessible form. The amendments require an agency to provide records in the form or format the person requests, so long as "the record is readily reproducible by the agency in that form or format."
- New Reference Materials. By March 31, '1997, agency heads will have to prepare an index of agency information systems and a handbook for obtaining information under FOIA and apart from FOIA.
- Annual Report. Currently, annual reports are submitted to the Attorney General on March 1 for the prior calendar year. However, the amendments place the annual reports on a fiscal year timetable. Reports for the prior fiscal year will be submitted to the Attorney General on or before February 1. The new timetable begins with fiscal year 1998; the report for fiscal year 1998 will be due on February 1, 1999. Notably, the new report format will include backlog-related data as well as the number of full-time agency staff devoted to processing FOIA requests.

The Solicitor's Office has created an ongoing task force to provide guidance to agencies as they implement the above amendments. All agencies are represented on the task force. The

Division of Legislation and **Legal Counsel** will serve as the task force's clearinghouse. If you have questions about implementation of the Act or about the task force's activities, please contact Miriam Miller, Co-Counsel for Administrative Law at (202) 219-8188.

November 1, 1996

- Reading Room records created on or after November 1, 1996, to be made publicly available on the internet.
- Agencies have until November 1, 1997, to make records created on, or after November 1, 1996, available on the internet.
- Examples of reading room records are: final adjudicatory opinions, specific policy statements, some staff manuals.

March 31, 1997

- Agencies must begin making frequently requested FOIA records publicly available.
- Agencies have until November 1, 1997, to make frequently requested FOIA records electronically available.
- Three or more FOIA requests for the same or substantially the same record qualify as a "frequent request."

November 1, 1997

- Reading Room records created on or after November 1, 1996, to be made publicly available on the internet.
- Frequently requested FOIA records to be made publicly available on the internet.

February 1, 1999

- First annual FOIA report due under new fiscal year system.
- The annual report due on February 1, 1999, will cover Fiscal Year 1998.

December 31 , 1999

- Agencies must provide a public internet index of frequently requested FOIA records.



November 18, 1996

MEMORANDUM **FOR** ALL AGENCY FOIA COORDINATORS
AND ADP COORDINATORS

FROM: MIRIAM **MILLER** *lll*
Counsel for Administrative Law

SUBJECT: Electronic **FOIA** Amendments of 1996

As you know, we have begun **meeting** regularly regarding the Electronic FOIA Amendments of 1996. The Solicitor's Office, Division of Legislation and **Legal** Counsel, created an ongoing task force to guide agencies as they implement the amendments; You are an integral part of the task-force. The task force's immediate goals are to make the Department aware of the amendments and to solicit and answer questions about the amendments.

We have attached two items to help you understand the amendments. These items are: (1) a summary of the amendments' key requirements; and (2) a series of charts listing the amendments' important compliance dates. At our initial meeting, you should have received a copy of the amendments and a copy of the Justice Department's summary of the amendments' major provisions. If you did not receive a copy of the amendments and Justice Department summary, call **LLC** attorney Rodger Pitcairn at (202) 219-8065, ext. 111, for a copy.

Obviously, the attached documents will not answer all of your questions. Furthermore, definitive answers may not yet exist for some questions. For example, how long should electronically posted records be retained? Or, how does an agency make a video or an audio tape available electronically? During the coming months, the Solicitor's Office will be developing answers to these and other questions you may have.

Additionally, the Solicitor's Office will be working closely with the Justice Department **as the** Labor Department promulgates its own regulations under the amendments. In order to write the regulations, the Solicitor's Office will need your assistance. You can help us by generating questions you have about the 1996 amendments. Please, call Rodger Pitcairn at (202) 219-8065, ext. 111, with your questions or e-mail the questions to Miriam Miller.

Finally, the amendments require agencies to create tin index of all major information systems as well as a description of the

major information and record locator systems each agency maintains. The Solicitor's Office asks for your assistance in this area as well. Specifically, would you please forward a copy of your component's indexes and descriptions to Rodger Pitcairn in LLC.

Thank you for your cooperation as we implement the Electronic FOIA Amendments of 1996. We will continue to meet regularly, address your questions about the amendments, and provide you with appropriate guidance.

Attachments

NOTE : Next meeting is scheduled for Thursday, December 5, 1996, 10:00-11:30 AM, Room N3437A-C.

Electronk FOIA Amendments of 1996

Summary of Key Requirements

Congress recently passed amendments to the Freedom of Information Act ("FOIA"). The amendments address the availability of and access to government information in electronic form.* The legislation requires government agencies to use new electronic technologies -- such as the internet -- to **"enhance public access to agency records and information."** The amendments will be **implemented over** several years; however, with the exceptions noted below, the most important date is March 31, 1997, the day on which the FOIA amendments take effect. The amendments' key requirements are:

- **Publicly Available Materials.** Subsection (a)(2) of FOIA already requires that materials such as final opinions rendered in the adjudication of cases, specific policy statements, and certain staff manuals routinely be made available for public inspection or copying. Under the amendments, any subsection (a)(2) records **created on or after November 1, 1996**, must be made publicly available by such electronic means as an **internet** home page. However, agencies have until November 1, 1997, to actually make records created on or after November 1, 1996, electronically available.
- **Frequent FOIA Requests.** Beginning on March 31, 1997, agencies must make frequently **requested** FOIA records publicly available. Agencies have until November 1, 1997, to make frequently requested FOIA records electronically available. Three or more **requests** under FOIA for the same or substantially the same record qualify as a **"frequent request."** By December 31, 1999, agencies must provide an electronic index of frequently requested FOIA records.
- **Definition of a "Record."** The amendments establish that a **"record"** is information stored in any format, including an electronic format.
- **Expedited Requests.** The amendments set forth the circumstances under which an agency will have to respond expeditiously to requests for records. For example, a request from the media about actual or alleged federal government activity may require an expeditious response.
- **20-Day Resoonse Time.** Previously, an agency had only 10 working days from the date a request for records was received to determine whether to comply with the request. Under the amendments, **the** agency will have 20 working days from receipt of the request to determine whether to comply. Nevertheless,

* The legislation did not amend any of the exemptions from required disclosure and, therefore, did not change the basic coverage of the FOIA.

an agency may extend the 20 day period if **"unusual circumstances"** exist. The agency must provide written notice to the requestor setting forth the unusual circumstances.

- Multi-Tracking. An agency may promulgate regulations to provide for multi-track processing of requests for records based on the amount of work or time (or both) involved in processing the requests. Under multi-tracking, agencies may establish separate first-in, first-out queues for FOIA requests with differing levels of complexity.
- Searches. The amendments **require** agencies to **"make reasonable efforts"** to search for records stored in electronic form or format.
- Choice of Format. Previously, an agency had no obligation to accommodate a **FOIA requestor's** choice of format; instead, the agency only had to provide information in a reasonably accessible form. The amendments require an agency to provide records in the form or format the person requests, so long as **"the record is readily reproducible by the agency in that form or format."**
- New Reference Materials. By March 31, 1997, agency heads will have to prepare an index of agency information systems and a handbook for obtaining information under FOIA and apart from FOIA.
- Annual Report. Currently, annual reports are submitted to the Attorney General on March 1 for the prior calendar year. However, the amendments place the annual **reports** on a **fiscal** year timetable. Reports for the prior fiscal year will be submitted to the Attorney General on or before February 1. The new timetable begins with fiscal year 1998; the report for fiscal year 1998 will be due on February 1, 1999. Notably, the new report format will include backlog-related data as well as the number of full-time agency staff devoted to processing **FOIA** requests.

"November 1, 1996

- Reading Room records created on or after November 1, 1996, to be made publicly available on the inter-net.
- Agencies have until November 1, 1997, to make records created on or after November 1, 1996, available on the internet.
- Examples of reading room records are: final adjudicatory opinions, specific policy statements, some staff manuals.

March 31, 1997

- Agencies must begin making frequently requested FOIA records publicly available.
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February 1, 1999

First annual FOIA report due under new fiscal year system.

- The annual report due on February 1, 1999, will cover Fiscal Year 1998.

December 31, 1999

- Agencies must provide a public internet index of frequently requested FOIA records.



November 19, 1996

Reply to the Attention of: DSS

OMAP NOTICE 97-12

MEMORANDUM FOR: ESA NATIONAL OFFICE PROGRAM HEADS
ESA REGIONAL ADMINISTRATORS FOR WAGE AND HOUR
ESA REGIONAL DIRECTORS FOR OFCCP
ESA REGIONAL DIRECTORS FOR OWCP
ESA REGIONAL DIRECTORS FOR OLMS
OMAP DIVISION DIRECTORS

Donna G. Copson

FROM: DONNA G. COPSON
Director, Office of Management,
Administration and Planning

SUBJECT: Electronic FOIA Amendments of 1996

Congress recently passed amendments to the Freedom of Information Act. The Department's Solicitor's Office will be drafting new FOIA regulations incorporating the amendments within the next few months. The Justice Department will be issuing guidance concerning the amendments as well. Until such time as the new regulations are received, we wanted to furnish you some information which answers some initial questions you may have about the amendments.

These items are: (1) U.S. Department of Justice's summary of the annual update seminar on the FOIA; (2) a summary of the amendments' key requirements; and (3) a series of charts listing the amendments' important compliance dates. Items 2 and 3 were prepared by our Solicitor's Office.

It is recognized that the attached documents will not answer all of your questions. This is where we need your help. We are interested in your specific questions concerning the FOIA amendments. Please E-mail your questions to Dottie Chester. Dottie will share your questions with Solicitor's Office staff, and we will try to obtain answers for you,

Thank you for your assistance.

Expiration date: This Notice remains in effect until superseded or cancelled.

Attachments